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that the defendant invoked his right to counsel. The defendant placing the evidentiary basis before this Court in his original affidavit and motion precludes this Court from adopting the government's inapposite theory of waiver and the complete absence of findings by this Court on the invocation of counsel issue in its original finding now supports a full evidentiary hearing and reconsideration, United States v. Browne, 891 F2d 389,391, 393-396 (1st Cir 1992)(reversed based upon lower court's inexplicable failure to make findings on whether defendant invoked his right to counsel after agent hit him on the head); United States V. Barone, 968 F2d 1378, 1380-1386(1st Cir 1992))(remanding for "explicit factual findings" on omitted point of the defendants actions and statements during transportation in vehicle).Where, as here, the defendant was talking to friends and had no motive to fabricate during his Middleton County Jail telephone conversations the computer disc copy of such taped conversations combined with copies of Miranda forms signed by two co-defendants strongly supports full development of the record at an evidentiary hearing or trial voir dire and granting suppression upon reconsideration, , United States V. Porter, 764 F2d 1, 5-7 (1st Cir 1985)(reversing denial of suppression motion because Agent initiated further conversations after the defendant invoked his right to counsel).

Anthony Bucci
By his attorney,

/s/Michael F. Natola

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing affidavit has been served the above date, electronically, upon Assistant U.S. Attorney John T. McNeil.

/s/ Michael F. Natola

MICHAEL F. NATOLA